The OVCS Four-Part Background Check Process

Overview of Criminal History Check Requirements

- The Office on Volunteerism and Community Service (OVCS) requires completion of the following four criminal history checks for AmeriCorps members **and** program staff:

  - National Sex Offender Public Registry (NSOPR) check, which identifies individuals required by their States to register as sex offenders *(See #1)*

  - Virginia State Police (VSP) Criminal Background Check, which involves a search of State law enforcement and court records *(See #2)*

  - FBI Fingerprint Check, which involves a search of National law enforcement and court records *(See #3)*

  - Child Protective Services (CPS) Check, which involves a check through Virginia Department of Social Services (VDSS) of records maintained by VDSS *(See #4)*

- NSOPR checks must be conducted prior to enrollment, and must have a visible date stamp. If a date stamp is not on the form when printed, the program should consider scanning and e-mailing the document to create a dated record of completion of the check. Hand-written dates will require further justification, and may lead to disallowed hours.

- Programs must conduct the four part background check on all new members, or returning members that have a break in service of more than 120 days.

  - Returning members with a break in service of 120 days or less are not required to complete a new 4-part background check. However, **a new NSOPR check must be completed prior to the beginning of service for all members, regardless of whether they are new or returning**.

  - For returning members with a break in service of 120 days or less, the program must include a signed attachment (or additional contract language) that obligates the member to disclose any charges or convictions that occur following the original background check. Failure to disclose will be cause for disallowance of education awards, and possible repayment of stipends.

- Programs must conduct the four part background check on all staff reflected in the program's budget (CNCS or Grantee share), and to include employees that have direct, ongoing contact with members or recipients of service (e.g., site supervisors). This designation is referred to as "covered staff".

- In consideration of the impact of this requirement on program budgets, OVCS follows CNCS regulation requiring that the checks are required only once for covered staff (employee) positions in a Corporation-sponsored program, unless there is a break in employment of greater than 120 days. If there is a break in employment of greater than 120 days, the entire National Service Criminal History Check must be performed again.

  - All covered staff must have a completed four-part background check. Any staff/site supervisor that has not received an FBI background check must have one conducted, regardless of the length or continuity of service. Once the staff/site supervisor has completed a four-part check, they may continue in a recurring role without additional checks if there is no break in employment of greater than 120 days.

- Programs must document in writing, within 45 days of enrollment, that they have conducted the required checks for any covered position. After the 45 day period has elapsed, OVCS will not process PER's until the background checks are complete.

- The initial monitoring visit by an OVCS Program Officer will include review of all criminal background checks. Upon completion of the visit, the Program Officer, Program Manager, and Fiscal Officer will review the results of the background checks review.
  - For any programs with outstanding background checks items, an e-mail will be sent alerting the program that PER's will not be processed until checks are completed, or rationale for the delay has been accepted by OVCS.

- The results of the background checks must be maintained at a secure location. The NSOPR check must be printed and placed in the member and staff files. All other files must be maintained and accessible for review by OVCS and CNCS. It is not necessary for the Program Director to duplicate files that are stored at another secure location (i.e. a school that maintains a teacher/principals file), but the Program Director should retain a summary of the results certified by an authorized program representative, along with written documentation that the results were considered in selecting the individual. Files maintained at another secure location MUST be accessible for review. **OVCS must have access to the original documentation of these checks, regardless of confidentiality concerns.** This applies to members and applicable program staff, regardless of whether applicable program staff is employed directly by the sub-grantee or by a partner of the sub-grantee. **If these maintenance rules cannot be followed, an Alternative Search Protocol must be requested.**

- If you are using an Alternative Search Protocol (ASP), make sure it has been approved and that you have documentation of that approval, and that it is clearly stated in your policies. If another entity is approving your members for eligibility, make sure that you clearly document OVCS review and approval, and how it meets Corporation for National and Community Service (CNCS) regulations. **See Page 5 of this document for CNCS requirements for reviewing ASP requests**.

- **The primary goal of all Programs must be to complete all background checks as early as possible.** This is to ensure the safety of all program participants, and to lessen the program burden of providing accompaniment while a check is pending. There are several ways to ensure that this occurs.
  - **Ensure that members disclose all items that will appear on their criminal history record. The SP-24 form for a combined State and FBI check will not return actual criminal history, and an unexpected failure will require additional submittals to retrieve actual criminal history. Programs should inform members and staff of the specific items that would lead to a denial, and clearly explain the Form SP-24 language signed by the member/staff that identifies a misrepresentation of criminal history as a misdemeanor.**
  - **Programs can begin background checks as soon as a member is considered for service. NSOPR checks must be completed prior to enrollment. Besides that check, programs must complete at least one substantive step by the date of enrollment. At a minimum, this should include having fingerprints completed and submitting them to Virginia State Police.**

- While awaiting background check results, members **must** be directly accompanied by someone who has had an approved background check conducted. Grantees must document that accompaniment occurs through use of a daily log, signed by the person providing accompaniment.

- o   Programs that do not properly document accompaniment will risk repayment of funds, as member hours may be disallowed.

- Programs are prohibited from recruiting as members anyone who has a first-degree murder conviction or a conviction of any crime that requires inclusion on the National Sex Offender Public Registry. Programs must develop a clear written protocol for determining suitability of applicants if other items are revealed as part of the Criminal History Check.

- All programs should have a Cover Sheet for each Member's background check file. This form should be the *Identity Verification and Criminal History Consideration* form, required by the Corporation for National and Community Service (CNCS). It can be found on our website at http://www.vaservice.org/go/national/americorps/support/

- If problems occur that delay or inhibit part of the check, create a memo to the file that describes the situation, and states how the organization is utilizing the Member pending completion. For example, if further criminal history records have to be requested for a Form SP-24 that results in a "fail", it should be documented as to whether the member disclosed the criminal history. If a member/staff has a background check returned for poor fingerprint quality, the steps taken to ensure quick resubmittal and completion should be documented.

The Four Parts of the Check

1)   National Sex Offender Public Registry Check

- **Note that the NSOPR check must occur PRIOR to enrollment in the program. Conduct this check immediately upon receiving an application for membership or employment!**

    - o   *Expenses associated with a member or a staff person are ineligible until this check is completed and documented*. Because the NSOPR check deals exclusively with public records, no release by the individual is necessary.

- Go to http://www.nsopw.gov/Core/Portal.aspx to conduct the check.

    - o   Be sure to accurately enter the name to be searched.

    - o   **Print out, with a date stamp, the results of the check. Place in the member files.**

        - ▪   If no information, or "hits", are returned, check is complete.

        - ▪   If "hits" are returned, document how it was determined that they were not the member/employee.

            - **If the member/employee is listed, they CANNOT be accepted as a member or employee for the AmeriCorps Program!**

- Document thoroughly all aspects of the search. The file should speak for itself, and clearly show that the check was conducted prior to enrollment, and all "hits" were investigated.

2) State and 3) FBI Fingerprint Checks for AmeriCorps Members and Program Staff

Overview

AmeriCorps programs must conduct both a State (VSP) and National (FBI) Fingerprint check on AmeriCorps members and applicable program staff.

Initial Process

AmeriCorps programs operated by a State or local government agency should contact their Human Resource department to determine the process for conducting VSP and FBI Fingerprint Checks.

AmeriCorps programs operated by **non-profit organizations** should follow the process below to conduct the required checks.

Send a letter on agency/organization letterhead to the Virginia State Police (VSP) stating the following;
  a. You are a Virginia AmeriCorps program.
  b. New Federal regulations require that you conduct national FBI Fingerprint Checks on all of your AmeriCorps program participants.
  c. Request a tracking number for processing fingerprint cards.

Send letters to:
Lt. Tricia W. Powers
Virginia Department of State Police
Central Criminal Records Exchange
P.O. Box 27472
Richmond, VA 23261

Upon receipt of the letter programs will be sent an application that must be submitted to the Virginia State Police in order to be registered to conduct the FBI Fingerprint Checks.
Once registered, programs will receive fingerprint cards and instructions for submitting them along with **Form SP-24**, which allows for a combined State and FBI Fingerprint check. Form SP-24 can be found on the VSP website, at http://www.vsp.state.va.us/downloads/SP-024.pdf.   Programs will pay for the checks as they are conducted. **The cost is $37 per fingerprint check. Programs should be using the "employee" designation for submittals, as opposed to "volunteer". Also, most local offices will require an additional fee to complete the fingerprinting process. This cost varies by locality, but is most often about $10.** Programs should make members aware that incorrect information (i.e. not reporting crimes that will be on criminal history record) submitted on Form SP-24 is a misdemeanor. Members should accurately reflect their record on this form to avoid any further penalties. For additional questions on the fingerprinting process, you may contact Barbara Hatcher at VSP at (804) 674-4683.

Fingerprint Rejections

If fingerprints are submitted to Virginia State Police, they may be deemed unreadable by either VSP or the FBI. If deemed unreadable by VSP, the fingerprint card will be returned with a red stamp on it, denoting that a Virginia Name Search was conducted. However, a National Name Search is still required. If the FBI has rejected the fingerprints at least twice, Programs should submit to the attention of Elvira Johnson at VSP (same address as all other checks) the following:

- Rejection notices and original fingerprint cards
- A short letter on Program letterhead stating the need for a National Name Search

VSP will complete the request to the FBI for a National Name Search, and return results to the Program.

Program Responsibilities for Handling Results
The Corporation for National and Community Service requires AmeriCorps programs to consider the results of all criminal background checks as part of the screening process in accepting an individual as a member of their program. However, the results of FBI and State Fingerprint Checks acquired through Form SP-24 are not made available to non-profit organizations. The VSP provides only a "pass/fail" notice on the fingerprint checks when returned based on screening against a list of convictions established under the National Child Protection Act.

All agencies, whether non-profit or government entities, must complete a State and FBI check, and document their process for reviewing the results and determining eligibility. This would include reviewing criminal history records from both the State and FBI, when applicable. Because non-profit based programs will not be able to ascertain specific conviction information for an individual who receives a "fail" notice, they cannot determine whether the individual is ineligible for AmeriCorps service based on CNCS criteria (conviction for murder or any crime that requires an individual to be listed on a State or National sex offender registry). Therefore, programs **must** establish their own written policy concerning how they will handle fail notices. Possible options in developing policy:
1. Receive Criminal History Records for both State and FBI checks.
   a. Request Virginia Criminal History Record using Form SP-167, found at http://www.vsp.state.va.us/FormsPublications.shtm.
   b. Allow individuals to have their own FBI Fingerprint Checks done, bring results to you, and demonstrate that their conviction(s) does not make them ineligible to serve based on CNCS criteria.
      i. Instructions provided by the FBI for obtaining individual results can be located at, http://www.fbi.gov/about-us/cjis/background-checks/submitting-an-identification-record-request-to-the-fbi.
2. Consider a fail notice from the VSP as making a person not eligible to serve.

Alternate Methods
OVCS has confirmed the process above utilizing the Virginia State Police. Alternate methods of conducting the required FBI and State Fingerprint Checks, including working through local or State agencies, must be submitted to OVCS for review and approval prior to use.

4) VDSS Child Protective Services Background Check

Overview
The Office on Volunteerism and Community Service (OVCS) has an agreement with the Virginia Department of Social Services (VDSS) Office of Background Investigations (OBI) to conduct Child Protective Services (CPS) background checks on all AmeriCorps State members and program staff. The AmeriCorps State Programs are exempt from the $7 processing fee, following the request of an exemption code.

Initial Process
The AmeriCorps State Programs that would like to receive the fee exemption must request the exemption in writing, by forwarding a letter to Ms. Kim Davis. The letter can be forwarded by e-mail or fax. This communication should include the request of an "Agency Code Assignment", and mention that they (the program) are a member of the OVCS VA AmeriCorps portfolio.

The letter should also state that they (the program) are instructed to contact Ms. Davis by Amanda Healy, OVCS AmeriCorps Manager. Ms. Davis' contact information is below:

> Ms. Kim Davis, Central Registry Research Tech
> Virginia Department of Social Services
> Office of Background Investigations
> 801 East Main Street, 6th Floor
> Richmond, VA 23219-2901
> (804) 726-7549(ofc.), (804) 726-7897(fax)
> kim.davis@dss.virginia.gov

Ms. Davis will review the request and assign an agency code to the program. This code must be included on the CPS Background Check Form (completed for individual AmeriCorps members and program staff) to receive the fee exemption.

CPS Background Check Form
The form can be found at the VA Department of Social Services Web Site at the following link:

http://www.dss.virginia.gov/files/division/dfs/cps/intro_page/forms/032-02-0151-09-eng.pdf

These forms must then be **notarized and mailed (originals)** to Ms. Davis at the address above. Upon processing, she will forward the results on individual members to programs.

Results
The results of a CPS check will be documented on the back of the request form in Section V, Central Registry Findings. There are three areas for response. If information is entered in number one, it will be a request for items that are missing or improperly completed (i.e. middle name missing) that must be resubmitted to conduct the check. If information is entered in number two, a founded disposition has appeared in the CPS database, and the grantee should contact their Program Officer immediately, and contact the local DSS that will be provided on the form for details on the CPS offense. If number three is checked and signed, the CPS database is clear for the individual submitted and no further action is needed for this check.

Requests for Approval of Alternative Criminal History Check Search Procedures

Basis for Requesting an Alternate Search Protocol

AmeriCorps State/National, Foster Grandparent and Senior Companion grantees that believe they cannot comply with the requirements in the Corporation's Criminal History Check regulations (45 CFR Parts 2510, 2522, 2540, 2551 and 2552) may apply to the Corporation for National and Community Service (Corporation) for approval to use an alternative search protocol. Those who believe their procedures differ from yet are substantially equivalent to or better than the Corporation's required procedures similarly may apply to the Corporation for approval to use alternative search protocols. Grantees with procedures that they believe follow all of the Corporation's requirements either meeting or exceeding all requirements (you will find a complete description of these requirements in the above referenced regulations), do not need to seek the Corporation's approval of an alternate search protocol.

How Do Requests Reach the Corporation?

An AmeriCorps State/National, Foster Grandparent or Senior Companion program that receives their funding grant directly from the Corporation is considered a "prime grantee." Prime grantees submit requests for alternate search protocols directly to the Corporation (see instructions below). A sub-grantee to an AmeriCorps State/National, Foster Grandparent or Senior Companion grantee that similarly believes they can not comply with the regulations or that their current procedures are equivalent or better, must submit their request to the prime grantee organization. Sub-grantee requests should not be submitted directly to the Corporation. Prime grantees determine if they will or will not endorse and forward such requests to the Corporation. Please be advised that approval of the use of alternative procedures does not include an exemption from conducting a check of the National Sex Offender Public Registry (NSOPR), operated by the Department of Justice. All grantees must conduct a check of the NSOPR (which is a national sex offender registry), in addition to any alternative system the Corporation may approve.

Review and Approval Timeframes

The Corporation will generally review and make a decision on your request within three weeks of receiving the request unless we need additional information before making our decision.

Submission Instructions

Grantees submit your request with copy to your Program Officer by mail or courier to:
Senior Grants Officer for Compliance
Attn: Alternative Criminal History Search Request
Office of Grants Management
1201 New York Ave. Washington, DC 20525
By eMail to: AlternateBackgroundCheck@cns.gov
Sub-grantees submit your request to your sponsoring prime grantee

What to Include in Your Request

• An explanatory cover letter / message that explains the nature of the request and specific element(s) of the required procedures that you would vary from. Include:

- Legal Applicant Name

- Name of your Program(s)

- Grant Number(s) that would be impacted

- Individual to contact for further information (name, address, eMail & telephone)

- An explanation of why you are requesting approval to use an alternative criminal history search. If prohibited by state law, attach a copy of the statute or prohibition along with any available legal analysis.

- A description of what process/system you plan to use to verify the identity of the person whose criminal history is under review. You may attach your policies and procedures if the description is contained therein.

- A description of the alternative process/system you plan to use to conduct a criminal history check. You may attach your criminal history check policy and procedures in lieu of a description if the description is contained therein.

- Affirmation that the process will include conducting a check of the National Sex Offender Public Registry (NSOPR), in addition to any alternative system the Corporation may approve.

Requests received without the legal name of your organization, identification of your grant(s) and program(s) as well as who to contact will not be reviewed until the missing information is provided through a revised submission.

If you have any questions regarding these instructions, please send your question to:
AlternateBackgroundCheck@cns.gov

A list of Frequently Asked Questions for the Four Part Background Check is being created, and will be available at http://www.vaservice.org/go/national/americorps/support/ . As additional questions come in, or better methods are discovered, these FAQ's will be updated.